

CALCUTTA TRAMWAYS ACT, 1880

1 of 1880

[3rd March, 1884]

CONTENTS

1. Short title
2. Meaning of "tramway"
3. Tramways may be made in accordance with the agreement between the Corporation and the grantees
4. Application of Act to Suburban tramways
5. Form in which tramways are to be constructed and maintained
6. No tramway to be opened without certificate from Engineer
7. Carriages how to be worked
8. Grantees may use tramway carriages with flange wheels
9. Grantees may fix and demand fares
10. Printed list of fares, etc., to be placed in carriages
11. Fares how to be paid
12. Power to break up streets
13. Grantees to keep the tramway roads in proper repair
14. Grantees not to obstruct ordinary traffic
15. Reservation of right of public to use roads
16. Saving of Port Commissioners tramways
17. Right of user only
18. Penalty for failure of grantees to comply with provisions of this Act
19. Penalty for obstructing grantees in the exercise of their power
20. Penalty for interfering with tramway
21. Penalty for avoiding payment of proper fare
22. Servant of grantees may arrest persons avoiding payment of fare
23. Carriage of dangerous or offensive goods
24. By-laws by Corporation; The grantees may make certain regulations
25. Penalty for breach of by-laws
26. Power to Corporation to license drivers, conductors, etc
27. Grantees to be responsible for all damages
28. Power for the Corporation and police to regulate traffic on roads
29. Reservation of power over roads
30. Corporation to have right of purchasing tramways after twenty-one years

SCHEDULE 1 :- SCHEDULE

CALCUTTA TRAMWAYS ACT, 1880

1 of 1880

[3rd March, 1884]

An Act to authorize the making and to regulate the working of Street Tramways in Calcutta. Preamble. WHEREAS the Corporation of the town of Calcutta, hereinafter called the Corporation, by an agreement dated the 2nd day of October, 1879, for the considerations therein expressed, granted to Dillwyn Parrish, Alfred Parrish and Robinson Souttar and their assigns, hereinafter called the grantees, the right to construct, maintain and use a tramway or tramways in Calcutta upon the terms and in the manner mentioned in the said agreement a copy whereof is set forth in the schedule to this Act, which said agreement had, on the twenty-fifth day of August, 1879, received the sanction of Lieutenant Governor of Bengal; AND WHEREAS the grantees are desirous of being empowered to construct the several street tramways in the said agreement and in this Act particularly described, and also such other tramways between such other places in Calcutta and the Suburbs of Calcutta, and by such other routes as may hereafter be approved; AND WHEREAS the objects of this Act cannot be attained without the authority of the Legislature; It is hereby enacted as follows

1. Short title :-

This Act may be called the Calcutta Tramways Act, 1880. (Commencement.) Rep. by Act 1 of 1903.

2. Meaning of "tramway" :-

In this Act, unless there be something repugnant in the subject or context, "tramway" means a tramway constructed under this Act.

3. Tramways may be made in accordance with the agreement between the Corporation and the grantees :-

Subject to the provisions of this Act, and of the said agreement, the grantees may make and maintain in Calcutta a tramway or tramways, with single or double lines, and with all necessary sidings, turn-outs, connections and lines (but in the case of sidings and turn-outs only in such places as the Corporation may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved by the Corporation and sanctioned by the ¹ [State Government]:

1st. A circular tramway passing round Fairlie Place, Strand Road, Koila Ghat Street and Clive Street.

2nd. Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road, and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive street, effecting a double junction with the circular tramway at Fairlie place.

3rd. Tramway No. 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th. Tramway No. 3, passing along Bow Bazar Street, Lall Bazar Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

5th. Tramway No. 4, commencing near Sobha Bazar Street and passing along Strand Road to Somerset Buildings, where it terminates.

6th. Tramway No. 5, commencing in the Circular Road at the end of Dhurumtollah Street, and passing along Dhurumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the Circular tramway at Koila Ghat Street.

7th. Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road, and passing along Elliott's Road and Wellesley Street, and joining tramway No. 5 in Dhurumtollah and tramway No. 1 in College Street.

8th. Tramway No. 7, passing along Chowringhee and joining tramway No. 5 at Dhurumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2:

Provided that, without the special sanction of the Corporation to be obtained in special general meeting of the Commissioners, there shall not be a double line in the following places:

In tramway	Number	1, Colootollah Street.
Ditto	"	2, the whole.
Ditto	"	6, Elliott Road.
Ditto	"	7, the connecting line.

1. Words subs, by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950.

4. Application of Act to Suburban tramways :-

In the event of any other tramway or tramways on other routes in Calcutta or in the Suburbs of Calcutta being from time to time approved by the Corporation or the Municipal Commissioners for the said Suburbs as the case may be, and sanctioned ¹[by the State Government] and undertaken by the grantees, notice thereof specifying the routes so approved of, and, in the case of suburban tramways, a copy of the agreement entered into between the said Municipal Commissioners and the grantees in respect thereof, shall thereupon be published in ² [Official Gazette]; and, upon such publication, all the provisions of this Act, so far as the same may be applicable, shall apply to the tramway or tramways in such publication specified, and all works and things connected with the same or incidental thereto, as if the said routes had been particularly specified in this Act and as if the agreement, if any, in reference thereto had been included in the schedule to this Act.

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950.

2. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

5. Form in which tramways are to be constructed and maintained :-

Every tramway shall be constructed on the meter guage of 3 feet 33/8 inches, or on such other gauge not exceeding 4 feet 81/2 inches as may be agreed upon between the Corporation and the grantees, and shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the immediately adjacent surface of the road; and before the work of construction is begun, the drawings and specification showing the proposed construction of each tramway shall be submitted to the Corporation and be approved by them, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by the Corporation.

6. No tramway to be opened without certificate from Engineer :-

No tramway shall be opened for public traffic until the same has been inspected and certified by the Engineer to the Corporation to be fit for such traffic.

7. Carriages how to be worked :-

The cars and carriages of the grantees on the lines of the tramways shall be worked with such power, animal or mechanical as the grantees may think suitable :

Provided that no steam-carriages shall be used without the special consent of the Corporation to be obtained in special general meeting of the Commissioners, and without the sanction of the [State Government].

8. Grantees may use tramway carriages with flange wheels :-

The grantees may use on their tramways carriages with flange wheels or wheels suitable only to run on a grooved rail, and subject to the provisions of this Act, and of the hereinbefore recited agreement, they shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail.

9. Grantees may fix and demand fares :-

The grantees shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their tramways, or for the carriage of goods by their tramways:

Provided that the rate of fare for each person or parcel shall, for any distance not exceeding three miles, not exceed three annas, and for any greater distance shall not exceed the same proportion.

10. Printed list of fares, etc., to be placed in carriages :-

A printed list, in English, Bengali and Urdu, of all the fares and charges authorised by this Act to be taken, and a printed copy in the same languages of all by-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the grantees upon any of their tramways. Such list and printed copy as aforesaid shall be published in the ¹ [Official Gazette] at the expense of the grantees.

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

11. Fares how to be paid :-

The fares and the charges by this Act authorised shall be paid to such persons, at such places, upon or near to the tramways, and in such manner and under such regulations as the grantees may, by

notice to be annexed to the list of fares, from time to time appoint.

12. Power to break up streets :-

The grantees may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the streets, as defined by Bengal Act 4 of 1876 (the Calcutta Municipal Consolidation Act), and bridges in the town of Calcutta, and therein lay sleepers and rails and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on such streets and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining their tramways subject to the following regulations:

1st. They shall give to the Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be open or broken up. Such notice to be given at least three days before the commencement of the work.

2nd. They shall not open or break up or alter the level of any such street or bridge, except under the superintendence and to the reasonable satisfaction of the Corporation for which superintendence the grantees shall pay all reasonable expenses, unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd. They shall not, without the consent of the Corporation, open or break up at any one time a greater length than a quarter of a mile on any line of tramway.

4th. They shall, with all convenient speed, and in all cases within six weeks at the most, unless the Corporation otherwise consent in writing, complete the work for which the said street or bridge shall be broken up, and fill in the ground and make good the surface, and to the satisfaction of the Corporation, restore the street or bridge to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th. They shall in the meantime when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th. They shall make good all damage done to the gas and water-pipes and sewers, whether belonging to the Corporation or to private individuals by the disturbance thereof.

7th. If by any such operations as aforesaid the grantees interrupt the supply of water or gas in or through any main or main pipe, they shall be liable to a penalty not exceeding two hundred rupees for every day upon which such supply shall be so interrupted.

13. Grantees to keep the tramway roads in proper repair :-

The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the Corporation shall direct, the rails of which any of their tramways shall for the time being consist, and so much of any street or bridge as lies between the rails of any tramway ; and, in the case of double lines or turnouts or sidings the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway; and in the course of carrying out such repairs, it shall not be necessary to give notice thereof to the Corporation.

14. Grantees not to obstruct ordinary traffic :-

In exercising the powers given to them by the last two preceding sections, the grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gaspipes by the direction of the Corporation.

15. Reservation of right of public to use roads :-

Nothing in this Act, or in any by-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail.

16. Saving of Port Commissioners tramways :-

Nothing in this Act, or in any by-law made under this Act, shall interfere with the right of the Port Commissioners, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels

suitable to run on a grooved rail.

17. Right of user only :-

Notwithstanding anything in this Act contained the grantees shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

18. Penalty for failure of grantees to comply with provisions of this Act :-

If the grantees fail in any respect to comply with the provisions of sections 5, 6, 7, 12 (except the last two clauses), 13 and 14 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of the Corporation or of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

19. Penalty for obstructing grantees in the exercise of their power :-

If any person wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

20. Penalty for interfering with tramway :-

If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things namely: interferes with, removes or alters any part of a tramway of the grantees, or of the works connected therewith; does or causes to be done anything in such a manner as to obstruct any carriage using the tramways; or knowingly aids or assists in the doing of such thing, he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

21. Penalty for avoiding payment of proper fare :-

If any person travelling or having travelled in any carriage of the

grantees avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

22. Servant of grantees may arrest persons avoiding payment of fare :-

It shall be lawful for any servant of the grantees, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the last preceding section mentioned, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer, in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

23. Carriage of dangerous or offensive goods :-

No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and, if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same or otherwise giving notice in writing to the book-keeper or other servant of the grantees with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the grantees to refuse to take any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

24. By-laws by Corporation; The grantees may make certain regulations :-

The Corporation in special general meeting may subject to confirmation thereof by the ¹[State Government], from time to time make such regulation as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent

with this Act. The grantees may make certain regulations. The grantees may, subject to confirmation as aforesaid, from time to time make such regulations for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them, and for regulating the travelling in or upon any carriage belonging to them, as are inconsistent with this Act. Notice of the making of any such ²[regulations] shall be published by the Corporation in the ³ [Official Gazette].

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950.

2. Word subs. by Ben. Act 16 of 1946.

3. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

25. Penalty for breach of by-laws :-

Any person offending against any ¹[regulation] made under the provisions of the last preceding section shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such ¹ [regulations] as a penalty for such offence.

1. Word subs. by Ben. Act 16 of 1946.

26. Power to Corporation to license drivers, conductors, etc :-

The Corporation shall have the like power of making and enforcing rules and regulations and of granting licenses with respect to all drivers, conductors and other persons having charges of the carriages using the tramways as they are for the time being entitled to make, enforce and grant with respect to the drivers of hackney-carriages and other persons having charge thereof.

27. Grantees to be responsible for all damages :-

The grantees shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and shall save harmless the Corporation and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

28. Power for the Corporation and police to regulate traffic on roads :-

Nothing in this Act shall limit the powers of the Corporation or the police to regulate the passage of any traffic along or across any

road along or across which any tramways are laid down, and the Corporation or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons. The Corporation shall not be liable to pay to the grantees any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

29. Reservation of power over roads :-

Nothing in this Act shall be construed to prevent the Corporation, or the Oriental Gas Company Limited, in the exercise of the powers conferred upon them under Act 5 of 1857 from opening, breaking up, widening, altering, diverting or improving any of the roads traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same :

Provided

(1) that they shall cause as little detriment or inconvenience to the grantees as circumstances admit;

(2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the grantees;

(3) that before they commence any work, whereby the traffic on the tramways will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work;

(4) that, in the event of their so interfering with, or stopping the running of, any tramway under this section, an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the rent hereinafter reserved and payable by the grantees;

(5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

30. Corporation to have right of purchasing tramways after twenty- one years :-

The Corporation shall have the right of purchasing the tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this Act, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years, after the expiration of the said twenty-one years upon similar notice being given; and the consideration for such purchases shall be a cash payment of one and two-fifths of the amount of the invested capital of the grantees, or securities of the ¹ [Central Government], or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council, or debentures of the Corporation of such amount as to produce, at the rate of interest current on such securities, seven per cent, per annum on the amount of the said invested capital: and, if the consideration for such purchase shall be given in such securities as aforesaid, the grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways, which shall have been purchased from them.

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

SCHEDULE 1
SCHEDULE